

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LESLIE DAWN EAGLE,

Petitioner,

vs.

YERINGTON PAIUTE TRIBE, *et al.*,

Respondents.

3:06-cv-00563-LRH-RAM
(Base File)

ORDER

This represented Indian Civil Rights Act (ICRA) habeas matter under 25 U.S.C. § 1303 comes before the Court on the petitioner's motion (#44) for leave to appeal *in forma pauperis*.

It is the Court's understanding that a habeas petitioner may proceed without prepayment of fees and costs or security therefore where, as in the present case, counsel has been appointed pursuant to the Criminal Justice Act. See 18 U.S.C. § 3006A(d)(7); Ninth Circuit Rule 3-1; *accord United States v. Dangdee*, 608 F.2d 807, 810 (9th Cir. 1979)(criminal defendant with CJA-appointed counsel was entitled to appeal without payment of fees and costs). The Court in any event further finds that petitioner's financial materials demonstrate that she is not able to pay the appellate filing fee. The motion therefore will be granted.

The Court additionally would note that it does not appear that a certificate of appealability (COA) is required in this matter under 28 U.S.C. § 2253(c) because the petitioner is not challenging either detention by state authorities or the denial of a Section 2255 motion. The Court in any event finds, while it believes that the issue was correctly decided, that the issue presented would merit a

1 certificate of appealability under the standard set forth in *Slack v. McDaniel*, 529 U.S. 473, 483-84, 120
2 S.Ct. 1595, 1603-04, 146 L.Ed.2d 542 (2000), as jurists of reason could find the issue debatable.

3 IT THEREFORE IS ORDERED that the petitioner's motion (#44) for leave to appeal *in forma*
4 *pauperis* is GRANTED.

5 The appeal accordingly is postured for processing and transmittal to the Court of Appeals.

6 DATED this 6th day of August, 2008.

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LARRY R. HICKS
UNITED STATES DISTRICT JUDGE